

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the matter of )  
 )  
Implementation of Section 621(a)(1) of the Cable )  
Communications Policy Act of 1984 as amended ) MB Docket No. 05-311  
by the Cable Television Consumer Protection and )  
Competition Act of 1992 )  
 )

**COMMENTS OF  
Telecommunications Board of Northern Kentucky  
IN RESPONSE TO THE FURTHER NOTICE  
OF PROPOSED RULEMAKING**

**Telecommunications Board of Northern Kentucky** submits these comments in response to the Further Notice of Proposal Rulemaking, released March 5, 2007, in the above-captioned rulemaking (“Further Notice”).

1. The **Telecommunications Board of Northern Kentucky (TBNK)** is the local franchising authority for Boone and Kenton Counties in Kentucky, and the cities of Bromley, Covington, Crestview Hills, Edgewood, Elsmere, Fairview, Ft. Mitchell, Fort Wright, Independence, Kenton Vale, Lakeside Park, Latonia Lakes, Ludlow, Park Hills, Ryland Heights, Taylor Mill, and Villa Hills. **The Telecommunications Board of NKY handles cable franchise negotiation and administration (including customer service complaint resolution) for the 17 cities and two counties listed above. The TBNK also operates 6 Public, Educational, and**

Governmental Access Cable TV Channels that provide an array of public service programming to over 44,000 cable subscribers in NKY. This includes live (using numerous PEG I-Net feeds from each city building) and tape replayed coverage of over 20 government meetings each month, local NKY election debates and forums, programming from our schools, libraries and local churches, and local high school sports that would not be covered by local broadcasters, who necessarily only provide profit generating programming, as opposed to community service programming. There is one franchised cable operator within the jurisdiction of Boone and Kenton Counties in Kentucky, and the cities of Bromley, Covington, Crestview Hills, Edgewood, Elsmere, Fairview, Ft. Mitchell, Fort Wright, Independence, Kenton Vale, Lakeside Park, Latonia Lakes, Ludlow, Park Hills, Ryland Heights, Taylor Mill, and Villa Hills. This cable operator, along with the current expiration date of their franchise is: **Insight Communications – expiration date December 19<sup>th</sup>, 2009.**

2. The **Telecommunications Board of Northern Kentucky (TBNK)** supports and adopts the comments of the Alliance for Community Media, the Alliance for Communications Democracy, the National Association of Telecommunications Officers and Advisors, the National League of Cities, the National Association of Counties, and the U.S. Conference of Mayors, filed in response to the Further Notice.

3. We oppose the Further Notice's tentative conclusion (at ¶ 140) that the findings made in the FCC's March 5, 2007, Order in this proceeding should apply to incumbent cable operators, whether at the time of renewal of those operators'

current franchises, or thereafter. This proceeding is based on Section 621(a)(1) of the Communications Act, 47 U.S.C. § 541(a)(1), and the rulings adopted in the Order are specifically, and entirely, directed at “facilitat[ing] and expedit[ing] entry of new cable competitors into the market for the delivery of video programming, and accelerat[ing] broadband deployment” (Order at ¶ 1).

4. We disagree with the rulings in the Order, both on the grounds that the FCC lacks the legal authority to adopt them and on the grounds that those rulings are unnecessary to promote competition, violate the Cable Act’s goal of ensuring that a cable system is “responsive to the needs and interests of the local community,” 47 U.S.C. § 521(2), and are in conflict with several other provisions of the Cable Act. But even assuming, for the sake of argument, that the rulings in the Order are valid, they cannot, and should not, be applied to incumbent cable operators. By its terms, the “unreasonable refusal” provisions of Section 621(a)(1) apply to “additional competitive franchise[s],” not to incumbent cable operators. Those operators are by definition already in the market, and their future franchise terms and conditions are governed by the franchise renewal provisions of Section 626 (47 U.S.C. § 546), and not Section 621(a)(1).

5. We strongly endorse the Further Notice’s tentative conclusion (at para. 142) that Section 632(d)(2) (47 U.S.C. § 552(d)(2)) bars the FCC from “preempt[ing] state or local customer service laws that exceed the Commission’s standards,” and from “preventing LFAs and cable operators from agreeing to more stringent [customer service] standards” than the FCC’s.

Respectfully submitted,

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